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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/781,137	02/18/2004	Floyd Backes	160-025	3361
34845 7590 06/04/2007 McGUINNESS & MANARAS LLP 125 NAGOG PARK ACTON, MA 01720			EXAMINER BEAMER, TEMICA M	
			ART UNIT 2617	PAPER NUMBER
			MAIL DATE 06/04/2007	DELIVERY MODE PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

10/781,137

Applicant(s)

BACKES ET AL.

Examiner

Temica M. Beamer

Art Unit

2617

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 27 February 2007.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-4 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-4 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Response to Arguments

1. Applicant's arguments filed 2/27/2007 with respect to the rejection under 101 have been fully considered and are persuasive. The 101 rejection has been withdrawn. However, upon further consideration, a new ground of rejection is made as set forth below.

Claim Rejections - 35 USC § 102

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

3. Claim 1 is rejected under 35 U.S.C. 102(b) as being anticipated by Kanai, U.S. Patent No. 5,386,589.

Regarding claim 1, Kanai discloses inherently, logic for detecting that a second access point is using the same radio frequency channel (col. 5, lines 35-58), logic, responsive to the detecting logic, for adjusting transmit power to decrease interference with the second access point detected to be using the radio frequency channel (col. 6, lines 8-23 and col. 7, line 48-col. 8, line 5), wherein the detecting logic and the reducing transmit power logic are executed by the first access point (col. 6, lines 8-23 and col. 7, line 48-col. 8, line 5).

Claim Rejections - 35 USC § 103

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

5. Claims 2-4 are rejected under 35 U.S.C. 103(a) as being unpatentable over Kanai in view of well-known prior art and further in view of Dent, U.S. Patent No. 5,345,598.

Regarding claim 2, Kanai discloses the logic of claim 1 as described above. Kanai, however, fails to disclose logic for receiving messages from the second access point. The examiner contends, however, that such a feature is well-known in the art and the examiner takes official notice as such.

Kanai further fails to disclose logic for maintaining a table including indications of the transmit power levels of other access points including the second access point and wherein the logic for adjusting transmit power does so in response to the indications in the table.

In a similar field of endeavor Dent discloses duplex power control in a communications network. Dent further discloses logic for maintaining a table including indications of the transmit power levels of other access points including the second access point and wherein the logic for adjusting transmit power does so in response to the indications in the table (col. 7, line 56-col. 8, line 2).

At the time of invention, it would have been obvious to a person of ordinary skill in the art to further modify Kanai with the teachings of Dent for the purpose of providing quick reference to power information.

Regarding claim 3, the combination of Kanai as modified and Dent discloses the logic of claim 2 as described above. The combination, however, fails to disclose logic for transmitting a power backoff level to other wireless devices in the network, the power backoff level indicative of the amount by which the first access point's transmit power has been adjusted.

The examiner contends, however, that such a feature is well-known in the art and the examiner takes official notice as such. At the time of invention, it would have been obvious to a person of ordinary skill in the art to modify Kanai and Dent further with well-known prior art for the purpose of ensuring the system is operating in a power optimal manner based on system power adjustments.

Regarding claim 4, the combination of Kanai and Dent as modified discloses the logic of claim 3 as described above. The combination, however, fails to disclose wherein the wireless network is a 802.11 wireless network.

The examiner contends, however, that the 802.11 wireless network is well-known in the art and the examiner takes official notice as such.

At the time of invention, it would have been obvious to a person of ordinary skill in the art to modify the combination of Kanai and Dent since the 802.11 wireless network is well-known and widely used in cellular communications systems.

Conclusion

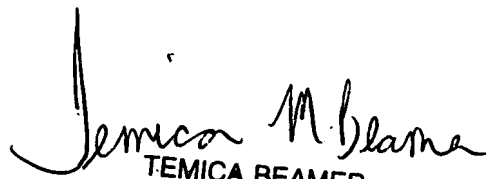
6. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Temica M. Beamer whose telephone number is (571) 272-7797. The examiner can normally be reached on Monday-Thursday (alternate Fridays) 7:30am-4:00pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Charles Appiah can be reached on (571) 272-7904. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

Temica M. Beamer
Primary Examiner
Art Unit 2617

tmb


TEMICA BEAMER
PRIMARY EXAMINER